

06-1083 (HL)

AO 243
REV 6/82MOTION UNDER 28 USC § 2255 TO VACATE, SET ASIDE, OR CORRECT
SENTENCE BY A PERSON IN FEDERAL CUSTODY

United States District Court		District: PUERTO RICO
Name of Movant DANIEL REYES-ESCRIBANO	Prisoner No. 16995-069	Docket No. 99-CR-044 (HL)
Place of Confinement FCI FAIRTON, P.O., BOX 420, FAIRTON, NEW JERSEY 08320		
<div style="display: flex; justify-content: space-between;"> <div>(include name upon which convicted)</div> </div> <div style="display: flex; justify-content: space-between; align-items: center;"> <div>UNITED STATES OF AMERICA</div> <div>v.</div> <div>DANIEL REYES-ESCRIBANO</div> </div> <div style="display: flex; justify-content: flex-end;"> <div>(full name of movant)</div> </div>		
<p style="text-align: center;">MOTION</p> <p>1. Name and location of court which entered the judgment of conviction under attack <u>U.S. DISTRICT COURT,</u> <u>DISTRICT OF PUERTO RICO, SAN JUAN, PUERTO RICO, 00918-1767</u></p> <p>2. Date of judgment of conviction <u>MAY 29, 2003</u></p> <p>3. Length of sentence <u>151 MONTHS</u></p> <p>4. Nature of offense involved (all counts) <u>18 U.S.C. § 1951 CONSPIRACY TO INTERFERE</u> <u>WITH COMMERCE BY EXTORTION</u></p> <p>5. What was your plea? (Check one)</p> <p>(a) Not guilty <input type="checkbox"/></p> <p>(b) Guilty <input checked="" type="checkbox"/></p> <p>(c) Nolo contendere <input type="checkbox"/></p> <p>If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or indictment, give details:</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>6. Kind of trial: (Check one)</p> <p>(a) Jury <input type="checkbox"/> N/A</p> <p>(b) Judge only <input type="checkbox"/></p> <p>7. Did you testify at the trial? Yes <input type="checkbox"/> No <input type="checkbox"/> N/A</p> <p>8. Did you appeal from the judgment of conviction? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p>		

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AO 243
REV 6/82

9. If you did appeal, answer the following:

- (a) Name of court _____ N/A _____
- (b) Result _____ N/A _____
- (c) Date of result _____ N/A _____

10. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications or motions with respect to this judgment in any federal court?
Yes ☐ No ☒

11. If your answer to 10 was "yes," give the following information:

- (a) (1) Name of court _____ N/A _____
- (2) Nature of proceeding _____ N/A _____
- (3) Grounds raised _____ N/A _____
- (4) Did you receive an evidentiary hearing on your petition, application or motion?
Yes ☐ No ☒
- (5) Result _____ N/A _____
- (6) Date of result _____ N/A _____

(b) As to any second petition, application or motion give the same information:

- (1) Name of court _____ N/A _____
- (2) Nature of proceeding _____ N/A _____
- (3) Grounds raised _____ N/A _____

AO 243
REV 6/82

(4) Did you receive an evidentiary hearing on your petition, application or motion?
Yes ☐ No ☒

(5) Result N/A

(6) Date of result N/A

(c) As to any third petition, application or motion, give the same information:

(1) Name of court N/A

(2) Nature of proceeding N/A

(3) Grounds raised N/A

(4) Did you receive an evidentiary hearing on your petition, application or motion?
Yes ☐ No ☒

(5) Result N/A

(6) Date of Result N/A

(d) Did you appeal, to an appellate federal court having jurisdiction, the result of action taken on any petition, application or motion?

(1) First petition, etc. Yes ☐ No ☒

(2) Second petition, etc. Yes ☐ No ☒

(3) Third petition, etc. Yes ☐ No ☒

(e) If you did not appeal from the adverse action on any petition, application or motion, explain briefly why you did not:

12. State concisely every ground on which you claim that you are being held unlawfully. Summarize briefly the facts supporting each ground. If necessary, you may attach pages stating additional grounds and facts supporting same.

CAUTION: If you fail to set forth all grounds in this motion, you may be barred from presenting additional grounds at a later date.

For your information, the following is a list of the most frequently raised grounds for relief in these proceedings. Each statement preceded by a letter constitutes a separate ground for possible relief. You may raise any grounds which you have other than those listed. However, you should raise in this motion all available grounds (relating to this conviction) on which you based your allegations that you are being held in custody unlawfully.

Do not check any of these listed grounds. If you select one or more of these grounds for relief, you must allege facts. The motion will be returned to you if you merely check (a) through (j) or any one of the grounds.

(a) Conviction obtained by plea of guilty which was unlawfully induced or not made voluntarily or with understanding of the nature of the charge and the consequences of the plea.

(b) Conviction obtained by use of coerced confession.

AO 243
REV 6/82

- (c) Conviction obtained by use of evidence gained pursuant to an unconstitutional search and seizure.
- (d) Conviction obtained by use of evidence obtained pursuant to an unlawful arrest.
- (e) Conviction obtained by a violation of the privilege against self-incrimination.
- (f) Conviction obtained by the unconstitutional failure of the prosecution to disclose to the defendant evidence favorable to the defendant.
- (g) Conviction obtained by a violation of the protection against double jeopardy.
- (h) Conviction obtained by action of a grand or petit jury which was unconstitutionally selected and impanelled.
- (i) Denial of effective assistance of counsel.
- (j) Denial of right of appeal.

A. Ground one: INEFFECTIVE ASSISTANCE OF COUNSEL, FAILURE TO
CHALLENGE PETITIONER'S SENTENCE

Supporting FACTS (tell your story *briefly* without citing cases or law): Counsel Did not
object to Petitioner's sentence exceeding the statutory
maximum for the offense for which petitioner pled guilty
to.

B. Ground two: DENIAL OF PETITIONER'S CONSTITUTIONAL RIGHT.

Supporting FACTS (tell your story *briefly* without citing cases or law): Petitioner's
Sixth Amendment Constitutional Right was violated as to
render the judgment vulnerable to collateral attack.

C. Ground three: _____

Supporting FACTS (tell your story *briefly* without citing cases or law): _____

AO 243
REV 6/82

D. Ground four: _____

Supporting FACTS (tell your story *briefly* without citing cases or law): _____

13. If any of the grounds listed in 12A, B, C, and D were not previously presented, state briefly what grounds were not so presented, and give your reasons for not presenting them: _____

Claims of Ineffective assistance of Counsel are brought on
post conviction motion, not raised on direct appeal.

14. Do you have any petition or appeal now pending in any court as to the judgment under attack?
Yes ☐ No ☒

15. Give the name and address, if known, of each attorney who represented you in the following stages of the judgment attacked herein:

(a) At preliminary hearing Jorge Diaz-Reveron, Esq. Capital Center Bldg,
South Tower Suite 605, 239 Arterial Hostos Ave, S.J. P.R. 00918

(b) At arraignment and plea same as above

(c) At trial same as above

(d) At sentencing same as above

(f) In any post-conviction proceeding N/A

(g) On appeal from any adverse ruling in a post-conviction proceeding N/A

Yes ☐ No ☒

Yes ☐ No ☒

(a) If so, give name and location of court which imposed sentence to be served in the future: N/A

(b) Give date and length of the above sentence: _____ N/A

Yes ☐ No ☐ N/A

Signature of Attorney (if any)

1-5-06

(date)

David Rye Evidence
Signature of M

Signature of Movant